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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

United States of America,

Plaintiff,

v.

Donald B. Harkey; Bonnie L. Bluth;
JPMorgan Chase Bank, N.A.; Mountain
Park Ranch Homeowners Association; and
Maricopa County, Arizona,

Defendants.

Case No.

**COMPLAINT TO FORECLOSE
FEDERAL TAX LIENS**

The United States of America complains and alleges as follows:

1. This is a civil action by the United States of America to foreclose federal tax liens on property located at 16244 S. 25th Pl., Phoenix, Arizona 85048 (the “Subject Property”).

JURISDICTION AND VENUE

2. This action is brought at the direction of the Attorney General of the United States and at the request and with authorization of the Chief Counsel of the Internal

1 Revenue Service ("IRS"), a delegate of the Secretary of the Treasury, pursuant to 26
2 U.S.C. §§ 7401 and 7403.

3 3. This Court has jurisdiction over this action pursuant to 26 U.S.C. §§ 7402
4 and 7403, and 28 U.S.C. §§ 1340 and 1345.

5 4. Venue is proper in the District of Arizona under 28 U.S.C. §§ 1391(b) and
6 1396. Donald Harkey and Bonnie Bluth reside in this district and the real property at
7 issue is located within this district.

8 **DEFENDANTS**

9
10 5. Donald Harkey resides within this district. He owns the Subject Property
11 and is married to Bonnie Bluth. Their joint tax liabilities for tax years 2007 and 2008 are
12 the basis for the tax liens on the Subject Property.

13 6. Bonnie Bluth resides within this district. She lives in the Subject Property
14 and is married to Donald Harkey. Their joint tax liabilities for tax years 2007 and 2008
15 are the basis for the tax liens on the Subject Property.

16 7. JPMorgan Chase Bank, N.A. is the successor beneficiary of the deed of
17 trust Donald Harkey executed to purchase the property. It is named a defendant under 26
18 U.S.C. § 7403(b) because it may claim an interest in the real property at issue.

19 8. Mountain Park Ranch Homeowners Association is named as a defendant
20 under 26 U.S.C. § 7403(b) because it may claim an interest in the real property at issue.

21 8. Maricopa County, Arizona is named as a defendant under 26 U.S.C. §
22 7403(b) because it may claim an interest in the real property at issue.
23
24
25

THE SUBJECT PROPERTY

9. The Subject Property is located at 16244 S. 25th Pl., Phoenix, Arizona 85048. Its parcel number is 301-70-791, and its legal description is

Lot 59, DESERT HILLS II AT MOUNTAIN PARK RACH, a subdivision recorded in Book 337 of Maps, Page 23, and in Book 337 of Maps, page 48, records of Maricopa County, Arizona.

10. Mr. Harkey acquired the Subject Property by warranty deed on May 27, 1997 and with a loan from Chase Manhattan Mortgage Corporation secured by a deed of trust. JPMorgan Chase Bank, N.A. succeeded Chase Manhattan Mortgage Corporation as the beneficiary of the deed of trust.

FEDERAL TAX LIABILITIES AND LIENS

11. In 2009, Mr. Harkey and Ms. Bluth filed joint income tax returns for 2007 and 2008.

12. Based on the self-reported amounts on the filed tax returns, a duly authorized delegate of the Secretary of Treasury of the United States timely assessed the tax deficiencies and additions to tax against Mr. Harkey and Ms. Bluth as summarized in the following table:

Type of Tax	Tax Period	Assessment Date	Amount and Type of Assessment	Outstanding Balance as of May 31, 2019 ¹
Income (1040)	2007	07/20/2009	\$160,960.00 – Tax	\$341,009.75
		07/20/2009	\$12,661.52 – Failure to pay	

¹ The outstanding balance amount in paragraph 12 includes unassessed taxes, penalties, interest, payments, credits, and other adjustments through May 31, 2019.

		07/20/2009	penalty	
		07/20/2009	\$47.00 – Estimated tax penalty	
		07/20/2009	\$35,610.52 – Late filing penalty	
		07/20/2009	\$11,907.75 – Interest	
		06/27/2011	\$16.00 – Fees and collection Costs	
Income (1040)	2008	08/24/2009	\$7,282.00 – Tax	\$8,885.09
		08/24/2009	\$137.84 – Failure to pay penalty	
		07/17/2009	\$87.00 – Estimated tax penalty	
		08/24/2009	\$80.09 – Interest	
Total				\$349,894.84

13. Pursuant to 26 U.S.C. § 6303, the IRS gave timely notice to Mr. Harkey and Ms. Bluth of the assessments set forth in paragraph 12 and demanded payment of them.

14. Despite notice and demand for payments of the assessments described in paragraph 12, Mr. Harkey and Ms. Bluth have neglected, refused, or failed to fully pay the assessments against them.

15. Since the dates of the assessments described in paragraph 12, interest, penalties and statutory additions have accrued and will continue to accrue, as provided by law. As of May 31, 2019, the outstanding balance of these assessments, including accrued interest and civil penalties, is \$349,894.84.

16. Pursuant to 26 U.S.C. §§ 6321 and 6322, federal tax liens in favor of the United States arose on the dates of assessments and attached to all property and rights to property of Mr. Harkey and Ms. Bluth, including the Subject Property.

17. To provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS filed a Notice of Federal Lien with the County Recorder of Maricopa County, Arizona as follows:

Type of Tax	Taxpayer	Tax Year(s)	Recording Date
Income	Donald Harkey & Bonnie Bluth	2007 & 2008	06/06/2011 10/17/2018 (refile)

18. The taxpayers filed a chapter 7 no asset bankruptcy on November 13, 2012. They listed the Subject Property as an exempt asset. They obtained a discharge on February 26, 2013.

19. The bankruptcy discharge removed the taxpayers' personal liability for the 2007 and 2008 tax liabilities, but the federal tax liens remain attached to the Subject Property.

20. This suit to foreclose is timely.

COUNT I: FORECLOSE FEDERAL TAX LIENS ON THE SUBJECT PROPERTY

21. The United States incorporates the allegations in paragraphs 1 to 20.

22. Under 26 U.S.C. §§ 6321 and 6322, federal tax liens arose on the tax assessment dates shown in paragraph 12 against all property and rights to property belonging to Donald Harkey and Bonnie Bluth, including the Subject Property.

23. The United States perfected these liens by filing a Notice of Federal Tax Lien with the Maricopa County Clerk and Recorder, as described in paragraph 17.

24. The United States' federal tax liens have priority over all interests in the Subject Property acquired after the attachment of the liens, subject to 26 U.S.C. § 6323.

1 25. Under 26 U.S.C. § 7403, the United States is entitled to enforce its federal
2 tax liens by foreclosing upon and selling the Subject Property.

3 **REQUEST FOR RELIEF**

4 WHEREFORE, the United States respectfully requests that the Court enter
5 judgment in its favor and against Defendants as follows:

6 A. Order that the federal tax liens of the United States be foreclosed upon the
7 Subject Property, that the Subject Property be sold, and that the proceeds from the sale be
8 distributed to the United States and any other creditors in their respective priorities, in
9 accordance with the Court's findings as to the validity and priority of the liens and claims
10 of all the parties;
11

12 B. That the United States be awarded its costs and such other relief as is just
13 and proper.

14 Dated: May 8, 2019

15 RICHARD E. ZUCKERMAN
16 Principal Deputy Attorney General

17 /s/ Alexander E. Stevko
18 ALEXANDER E. STEVKO
19 Trial Attorney, Tax Division
 U.S. Department of Justice

20 Of Counsel:
21 ELIZABETH A. STRANGE
22 First Assistant United States Attorney
 District of Arizona
 Counsel for the United States

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): **United States of America**

**Donald B Harkey ; Bonnie L. Bluth ;
JPMorgan Chase Bank, N.A. ;
Defendant(s): Mountain Park Ranch Homeowners
Association ; Maricopa County,
Arizona**

County of Residence: Outside the State of Arizona

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

**Alexander Stevko
U.S. Department of Justice, Tax Division
PO Box 683
Washington, DC 20044-0683
202-616-2380**

II. Basis of Jurisdiction:

1. U.S. Government Plaintiff

III. Citizenship of Principal
Parties (Diversity Cases Only)

Plaintiff: - N/A

Defendant: - N/A

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

870 Taxes US Plaintiff or Defendant

VI. Cause of Action:

26 USC 7403

VII. Requested in Complaint

Class Action: **No**

Dollar Demand: **349.894**

Jury Demand: **No**

VIII. This case is not related to another case.

Signature: Alexander Stevko

Date: 5/8/2019

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014